Tax Flash News – New Law for Taxation of foreign banks operating in Dubai

In his capacity as the Ruler of Dubai, His Highness Sheikh Mohammed bin Rashid Al Maktoum, Vice President, and Prime Minister of the UAE, issued Law No. (1) of 2024 on the taxation of foreign banks operating in the emirate of Dubai ('the New Law'). This New Law annuls Regulation No.(2) of 1996 ('the Old Law') which governed the taxation of foreign banks operating in the Emirate of Dubai.

The New Law applies to all foreign banks operating in Dubai, including special development zones and free zones. However, foreign banks licensed to operate in the Dubai International Financial Centre (DIFC) are excluded from this law in relation to income earned from within or through DIFC.

Tax Rate

An annual tax rate of 20% is imposed on foreign banks on their taxable income. However, if the foreign bank pays corporate tax in accordance with Federal Law No. (47) of 2022 ('UAE CT Law'), the amount of corporate tax paid shall be granted as a deduction from its total tax liability.

In case the foreign bank is subject to tax at a rate of 20%, our understanding is that the tax credit for UAE corporate tax may be provided as a deduction from the tax rate (i.e. 20% less 9%).

Basis of calculation of taxable income

The New Law outlines regulations for calculating taxable income and filing the tax return. It also details the procedures for tax return submission, voluntary disclosures, penalties and the responsibilities and processes related to tax auditing.

As per the New Law, we understand that the basis for calculating taxable income under the UAE CT Law should be considered in addition to the rules and regulations approved by the Director General ('DG') of the Department of Finance regarding the following:

1. The method of calculating shared revenues and expenses
2. Head office expenses and regional administration expenses
3. Unrealized gains and losses from taxable income
4. Profits that do not fall under the income statement
5. Any other provisions necessary for calculating taxable income.

Procedural matters

Taxpayers can submit a voluntary declaration in relation to any over or underpaid tax within 30 days of becoming aware of it.

The rules and procedures stipulated under the Old Law shall be applied for tax periods that began before the provisions of this Law came into effect. The DG has the authority to specify any transitional provisions related to the application of the provisions of this law.

The Old Law had a timeline of three months from the end of a financial year to file the tax return. No timeline for the tax return filing is specified in the New Law and this is to be specified by the DG.

Key takeaways

This is a welcome move as it avoids double taxation for branches of foreign banks operating in the Emirate of Dubai.

The wording suggests that the new Law would apply for the tax periods commencing after 8 March 2024. This could mean that for banks with a December year end, the first tax period under the new Law would be 1 January to 31 December 2025. This would mean that no tax credit may be available for any corporate tax paid for FY 2024. It is not clear if this is the intention and further clarity is needed on this aspect.

The Emirate of Sharjah had already released a new law for taxation of foreign banks last year. It is expected that other Emirates will also issue new banking tax related laws.

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